

BEFORE THE IOWA BOARD OF HEARING AID SPECIALISTS

| | | |
|-----------------------------------|---|-----------------------------------|
| Re: |) | CASE NO. 14-0263 |
| Hearing Aid Specialist License of |) | |
| |) | |
| Duane Flagel |) | COMBINED STATEMENT OF |
| License No. 00785 |) | CHARGES, SETTLEMENT |
| Respondent. |) | AGREEMENT, AND FINAL ORDER |

COME NOW the Iowa Board of Hearing Aid Specialists ("Board") and Duane Flagel ("Respondent"), and enter into this Combined Statement of Charges, Settlement Agreement, and Final Order ("Order") pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2015), and Iowa Administrative Code chapter 645—12, stating the following:

A. STATEMENT OF CHARGES

Count I

1. Respondent is charged with negligence in the practice of the profession by negligent supervision in violation of Iowa Code sections 154A.24(3)(s), 272C.3(2)(b) and Iowa Administrative Code rules 645—121.2(4)(a), (b), 645—121.3(1)(f), and 645—124.2(2)(15).

Count II

2. Respondent is charged with knowingly employing an unlicensed person and allowing him to perform work requiring a hearing aid specialist license in violation of Iowa Code section 154A.24(3)(b) and Iowa Administrative Code rule 645—124.2(2)(33).

B. FACTUAL CIRCUMSTANCES

1. Respondent is a licensed hearing aid specialist in the State of Iowa, with license number 00785. His license is active and currently set to expire on December 31, 2018.
2. Respondent was a co-owner of Concept by Iowa Hearing Aid Centers at all times relevant to this case.
3. Respondent trained and supervised David Meyer under a hearing aid specialist temporary permit at Concept.
4. Respondent allowed Mr. Meyer, while he held a temporary permit, to sign documents, including audiograms, with no other accompany signatures of supervisors.
5. Under Respondent's supervision, Mr. Meyer conducted incomplete and inaccurate hearing evaluations.

6. After Mr. Meyer was licensed, his license went inactive for the first eight months of 2015. During this time, Respondent allowed Mr. Meyer to independently engage in the practice of hearing aid fitting and dispensing.

C. SETTLEMENT AGREEMENT AND FINAL ORDER

1. The Board has jurisdiction over the parties and the subject matter of these proceedings.
2. Respondent admits the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case hearing, would constitute grounds for the discipline agreed to in this Order.
3. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's action, by freely and voluntarily entering into this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
4. Respondent acknowledges that he has the right to be represented by counsel on this matter.
5. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.
6. This Order is subject to approval by a majority of the full Board. If the Board does not approve this Order, it shall be of no force or effect to either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall be the full and final resolution of this matter.
7. This Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.
8. This Order shall not be binding as to any new complaints received by the Board.
9. Respondent understands the Board is required by federal law to report any adverse action to the National Practitioner Data Bank.
10. This Order, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.
11. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

1. Respondent is hereby **CITED** for negligent supervision and knowingly employing an unlicensed person and allowing him to perform work requiring a hearing aid specialist

license, and **WARNED** that failure to comply with the laws governing hearing aid specialists in the future could result in further discipline.

2. Respondent agrees to pay a civil penalty in the amount of one thousand dollars (\$1000). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Iowa Board of Hearing Aid Specialists, Bureau of Professional Licensure, IDPH, Lucas State Office Bldg., 5th floor, 321 East 12th Street, Des Moines, IA 50319 within thirty (30) days of the Board's approval of this Agreement. All civil penalty payments shall be deposited into the State of Iowa general fund.
3. Respondent agrees to attend six (6) hours of continuing education in the area of ethics and/or supervision. These continuing education hours shall conform to the requirements of Iowa Administrative Code rule 645—122. These hours shall not count towards Respondent's continuing education requirement for renewal. Respondent is solely responsible for all costs associated with obtaining these hours. Respondent shall provide the Board proof of completion of the six (6) continuing education hours within four (4) months of the Board's approval of this Agreement.
4. Respondent shall not be a supervisor to temporary permit holders under Iowa Administrative Code rule 645—121.3 for one year after the Board's approval of this Agreement. Thereafter, Respondent may apply to the Board to become a supervisor after meeting the requirements in Iowa Administrative Code rule 645—121.3 and demonstrating to the Board that he can meet the requirements of Iowa Administrative Code chapter 645—123.2, and train and supervise properly. This demonstration shall include a letter to the Board regarding how he will fulfill his duties as a supervisor and what steps he has and will take to fulfill the requirements to be a successful supervisor. If Respondent is currently supervising any temporary permit holders, he shall suspend those duties and immediately inform the Board of the temporary permit holders who are affected.
5. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 147, 154F, and 272C and Iowa Administrative Code rule 645—124.

This Combined Statement of Charges, Settlement Agreement, and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 2nd day of

April, 2017


NAME
Respondent

This Combined Statement of Charges, Settlement Agreement, and Final Order is approved by the Iowa Board of Hearing Aid Specialists on the 7 day of August, 2017.


Chairperson
Iowa Board of Hearing Aid Specialists

Copy to:

Rebecca Barloon
Assistant Attorney General
Licensing & Administrative Law Division
Iowa Department of Justice
Hoover Building, 2nd Floor
Des Moines, IA 50319